DOCUMENT RESUME

ED 386 878 EC 304 268

TITLE	A Joint Statement on Violence in the Schools.
INSTITUTION	Council for Children with Behavioral Disorders.; Council of Administrators of Special Education, Inc.
PUB DATE	Jun 95
NOTE	4p.
PUB TYPE	Viewpoints (Opinion/Position Papers, Essays, etc.) (120)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Aggression; Behavior Disorders; *Behavior Problems; Compliance (Legal); *Disabilities; *Discipline; Elementary Secondary Education; Mainstreaming; Position Papers; Public Schools; School Responsibility; Special Education; Student Behavior; *Violence

ABSTRACT

This issue paper on violence in public schools provides an overview of the problem and a joint statement by the Council of Administrators of Special Education (CASE) and the Council for Children with Behavior Disorders (CCBD). These two organizations believe that the majority of the violent, aggressive, or destructive students in U.S. schools are not students receiving special education, but students whose behavior may be incidental to a particular emotional crisis. Most students who have cognitive, emotional, social, or behavioral disabilities are effectively managed and taught through special education interventions, and rarely exhibit the violent behavior that places them and those around them in danger of harm. Both CCBD and CASE endorse the need for a school district to immediately remove any student who has a disability if he or she becomes violent, aggressive, or destructive within a particular school. Such students must continue to receive their education in an alternative educational setting until an assessment has been completed and appropriate decisions are made around their long-term education program. This assessment would involve consideration of whether the student's return to the previous educational placement with appropriate supports will provide safety for self and others, and whether there are new characteristics identified about the student which indicate that the least restrictive environment for the student is no longer the regular school setting. Additionally, all students should have the opportunity to receive alternative educational services. (SW)

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Council for Children with Behavioral Disorders

A JOINT STATEMENT ON VIOLENCE IN THE SCHOOLS

The Council for Children with Behavior Disorders (CCBD) and The Council of Administrators of Special Education (CASE)

ED 386 878

Background

Public schools today face a growing challenge in educating students who are violent, aggressive, and destructive. The past several years have witnessed a dramatic increase in the amount and severity of aggressive and violent behavior seen in schools. The media, politicians and educators increasingly are pointing to this highly visible violence as a reason our schools are not performing at the level necessary. There is a strong national outcry against this violence in our schools and different organizations have called for the automatic expulsion of all students found to be carrying a weapon or, in some other way, believed to be of danger to him/herself, other students, adults or property. This has led to students who are violent being immediately expelled long-term from school and, in some cases, losing their right to receive a public education.

Typically, when students become violent, dangerous, and/or aggressive in the school setting, it has been the responsibility of school officials to remove the student immediately from the school to ensure that other students, adults, and/or property will not be harmed. This has always been viewed as a reasonable response supported by the general public. In fact, school officials are required by state and federal laws to guarantee that public school environments remain a safe and comfortable place where students can learn.

Some students who are violent, aggressive or destructive in schools have documented disabilities and receive special education services under the federal protection of the Individuals with Disabilities Education Act (IDEA). In fact, it is often mistakenly assumed that a reason for the increased violence in public schools is directly related to the increased number of students with disabilities being educated within their local public school environment. Within the regulations implementing the IDEA there is a "stay put" provision. This provision requires that a student remain in his/her current placement if the parent(s) are in disagreement with a proposed change of placement. Also, the provision requires that the student "stay put" through the time necessary for due process and/or subsequent evaluations to determine the appropriate placement for the student. For these reasons, it has been difficult and legally precarious for school districts to remove a special education student immediately from his/her current educational placement

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(school setting) as a result of violent behavior that may be related to or a result of the student's disability.

The "stay put" provision has caused confusion, considerable frustration and fostered controversy. Increasingly, parents have turned to this federal regulation in an effort to prevent schools from expelling their child for aggressive, violent or destructive behavior. Parents are filing for due process protections to invoke the IDEA's "stay put" provisions charging that school districts are "breaking the law" if they immediately remove a student for this legally constitutes a change in educational placement which cannot occur without parental permission.

Nationwide, this controversy has led to a growing resentment by school officials regarding what many see as an inappropriate and unfair "dual" discipline system allowing students with disabilities to receive special treatment and protection when they commit a violent act on school property. Court cases such as Honig vs. Doe have not adequately addressed the issue of how local school districts can appropriately respond to students with disabilities who become violent in the school setting. School districts need clarity within the federal IDEA regulations that will protect the rights of the student with a disability while also protecting the rights of everyone else who must function in the same public school environment.

The Council of Administrators of Special Education (CASE) and The Council for Children with Behavior Disorders (CCBD) jointly believe:

The majority of the violent, aggressive or destructive students in American Schools are NOT students receiving special education, but, rather, students whose behavior may be incidental to a particular emotional crisis.

Most students who have cognitive, emotional, social or behavioral disabilities are effectively managed and taught through their special education interventions and, as such, rarely exhibit the violent behavior that places them and those around them in danger of harm.

Occasionally a student receiving special education services will become aggressive/violent and become a danger to self and/or others. In those few instances where special education students do become of danger to themselves and others, the legal right of others within the public school to have a safe and effective learning environment must take precedence over the right of the special education student to remain in their current educational placement under the "stay put" provision within the IDEA.

Schools must have the right to remove these students to an alternative educational setting, identified by the student's IEP team, on a temporary basis and provide them with their special education services. LEAs must be able to implement quickly and unilaterally any of several alternative settings for a violent student. Students with disabilities must continue to receive special education and related services in a setting where their safety and that of others in the public school environment is protected. For students with disabilities this unilateral placement should continue until the resolution of due process.

During the time a student is in the alternative educational setting the LEA must conduct a re-evaluation to determine:

a) Whether the student's violent behavior was an isolated incident and is not likely happen again.

b) Whether the student's return to the previous educational placement with appropriate supports and related services will provide safety for self and others.

c) Whether or not there are new characteristics within the student identifiable through an evaluation which determines that the least restrictive environment for the student is no longer the regular school setting.

d) Using the information gathered through the emergency evaluation, the Individualized Education Planning Team shall reconvene to determine the Least Restrict Environment for the student.

e) If the LRE is determined to be an alternative educational setting, then the LEA is responsible for implementing the appropriate placement as determined by the Individualized Education Planning Team.

Summary

CCBD and CASE both endorse the need for a school district to immediately and unilaterally remove any student who has a disability if he or she becomes violent, aggressive or destructive within a particular school. Such students must continue to receive their education in an alternative educational setting until an assessment has been accomplished and appropriate decisions are made around their long-term education program. Additionally, all students should have the opportunity to receive alternative educational services.